

House File 173 - Introduced

HOUSE FILE _____
BY WHITAKER, KUHN, FREVERT,
SWAIM, SCHUELLER, SMITH,
and GASKILL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing authority to a county board of supervisors to
2 establish a separation distance requirement between an animal
3 feeding operation maintaining swine and a structure which is
4 part of a swine farrowing and gestating operation, and
5 providing an effective date.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1292HH 82
8 da/gg/14

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1 1 Section 1. NEW SECTION. 459.203A SWINE FARROWING AND
1 2 GESTATING OPERATIONS == SPECIAL BIOSECURITY SEPARATION
1 3 DISTANCES.
1 4 1. A county board of supervisors may adopt a swine
1 5 biosecurity ordinance requiring a separation distance in feet
1 6 between an animal feeding operation maintaining swine and a
1 7 structure which houses more than twenty-five animal units and
1 8 is part of a swine farrowing and gestating operation located
1 9 in the county. If the animal feeding operation or the
1 10 structure is located in a different county, the joint boards
1 11 of supervisors of the different counties may adopt the
1 12 biosecurity ordinance. On the effective date of the ordinance
1 13 requiring a separation distance, except as provided in
1 14 subsection 2 and section 459.205, the animal feeding operation
1 15 shall not be established or expanded within that separation
1 16 distance.
1 17 2. a. An animal feeding operation established or expanded
1 18 prior to the date that a separation distance became effective
1 19 as provided in a biosecurity ordinance and which does not
1 20 comply with the separation distance may continue to operate
1 21 regardless of the separation distance requirement.
1 22 b. An animal feeding operation may be expanded within a
1 23 separation distance required in a biosecurity ordinance if the
1 24 expansion is in accordance with the terms and conditions of a
1 25 variance granted by the county board of supervisors which
1 26 adopted the biosecurity ordinance.
1 27 Sec. 2. Section 459.205, subsection 3, Code 2007, is
1 28 amended to read as follows:
1 29 3. a. A confinement feeding operation structure which is
1 30 constructed or expanded within any distance from ~~a~~ any of the
1 31 following:
1 32 (1) A residence, educational institution, commercial
1 33 enterprise, or bona fide religious institution, city, or
~~1 34 public use area, if the residence, educational institution,~~
1 35 ~~commercial enterprise, or bona fide religious institution was~~
2 1 ~~constructed or expanded, or the boundaries of the city or~~
~~2 2 public use area were expanded, after the date that the~~
2 3 ~~confinement feeding operation was established.~~
2 4 (2) A city or public use area, if the boundaries of the
2 5 city or public use area were expanded after the date that the
2 6 confinement feeding operation was established.
2 7 (3) A swine farrowing and gestating operation, if the
2 8 swine farrowing and gestating operation was constructed or
2 9 expanded after the date that the confinement feeding operation
2 10 was established.
2 11 b. The date the confinement feeding operation was
2 12 established is the date on which the confinement feeding
2 13 operation commenced operating. A change in ownership or
2 14 expansion of the confinement feeding operation shall not
2 15 change the established date of operation.

2 16 Sec. 3. Section 459.303, subsection 1, unnumbered
2 17 paragraph 1, Code 2007, is amended to read as follows:
2 18 The department shall approve or disapprove applications for
2 19 permits for the construction, including the expansion, of
2 20 confinement feeding operation structures, as provided by rules
2 21 adopted pursuant to this chapter. ~~The department's decision~~
~~2 22 to department shall approve or disapprove a permit for the~~
2 23 construction of a confinement feeding operation structure
2 24 shall be based on whether the application is submitted
2 25 according to procedures required by the department and the
2 26 application meets the requirements of this chapter, including
2 27 standards established by the department and separation
2 28 distance requirements for the construction and expansion of
2 29 confinement feeding operation structures. A person shall not
2 30 begin construction of a confinement feeding operation
2 31 structure requiring a permit under this section, unless the
2 32 department first approves the person's application and issues
2 33 to the person a construction permit. The department shall
2 34 provide conditions for requiring when a person must obtain a
2 35 construction permit.

3 1 Sec. 4. EFFECTIVE DATE. This Act, being deemed of
3 2 immediate importance, takes effect upon enactment.

3 3 EXPLANATION

3 4 BACKGROUND. This bill amends Code chapter 459, the "Animal
3 5 Agriculture Compliance Act" (Code section 459.101). The Code
3 6 chapter generally regulates animal feeding operations. As
3 7 part of the regulation, the Code chapter provides for
3 8 confinement feeding operation structures, including
3 9 confinement feeding operation buildings. Regulations
3 10 affecting animal feeding operations are often based on size.
3 11 Since 2002, the size of a confinement feeding operation is
3 12 measured by animal unit capacity (2002 Iowa Acts, ch 1137).
3 13 An animal unit is classified by species and types within that
3 14 species. Butcher or breeding swine weighing more than 55
3 15 pounds equal 0.4 animal units and swine weighing between 15
3 16 and 55 pounds equal 0.1 animal units.

3 17 These regulations include separation distance requirements
3 18 depending on three factors: (1) the type of location
3 19 benefiting from the separation such as a home, school,
3 20 business, church, public use area, or thoroughfare; (2) when
3 21 the confinement feeding operation was constructed or expanded,
3 22 usually based on the effective date of a statute creating the
3 23 requirement; and (3) the capacity of the confinement feeding
3 24 operation (since 2002, its animal unit capacity). There are
3 25 several exceptions. Code section 459.205 provides several
3 26 exceptions. A separation distance requirement does not apply
3 27 to small animal feeding operations (500 or fewer animal
3 28 units). By its terms, a separation distance requirement does
3 29 not apply if the titleholder of the land benefiting from the
3 30 distance separation executes a written waiver with the
3 31 titleholder of the land where the structure is located.
3 32 Another exception provides that a separation distance
3 33 requirement does not apply when a benefited location
3 34 constructs or expands within an existing separation distance.

3 35 BILL'S PROVISIONS. The bill allows for the creation of a
4 1 new separation distance requirement which benefits a
4 2 confinement building which is part of a swine farrowing and
4 3 gestating operation housing more than 25 animal units.
4 4 Specifically, the bill provides that a county board of
4 5 supervisors may adopt an ordinance (referred to as a
4 6 biosecurity ordinance) that establishes a separation distance
4 7 between an animal feeding operation maintaining swine and a
4 8 structure where sows and litters are housed. It provides that
4 9 such a separation requirement does not prohibit the status of
4 10 an animal feeding operation existing on the effective date
4 11 that the requirement became effective as provided in the
4 12 biosecurity ordinance. The bill provides that a county board
4 13 of supervisors may grant a variance to allow construction or
4 14 expansion within the separation distance. Code section
4 15 459.205 applies so that small animal feeding operations are
4 16 exempt from separation distance requirements. Similarly, Code
4 17 section 459.205 applies so that a neighboring landowner
4 18 benefiting from a separation distance may execute a waiver to
4 19 allow construction or expansion of a confinement feeding
4 20 operation structure within the separation distance. Finally,
4 21 the bill provides that a separation distance requirement does
4 22 not apply when the swine farrowing and gestating operation
4 23 constructs or expands within an existing separation distance.

4 24 The bill takes effect upon enactment.

4 25 LSB 1292HH 82

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